

1 THOMAS M. FERLAUTO (SBN 155503)
2 LAW OFFICE OF THOMAS M. FERLAUTO, APC
3 25201 Paseo de Alicia, Suite 270
4 Laguna Hills, California 92653
5 Telephone: 949-334-8650
6 Fax: 949-334-8691
7 Email: TMF@lawofficeTMF.com

8 Attorney for Plaintiff, JOSHUA ASSIFF

9 PATRICK E. STOCKALPER, SBN 156954
10 MOLSHREE GUPTA, SBN 275101
11 KJAR, MCKENNA & STOCKALPER, LLP
12 841 Apollo Street, Suite 100
13 El Segundo, California 90245
14 Telephone (424) 217-3026
15 Facsimile (424) 367-0400
16 pstockalper@kmslegal.com
17 mgupta@kmslegal.com

18 Attorneys for Defendants,
19 **COUNTY OF LOS ANGELES and**
20 **DEPUTY TRAVIS KELLY**
21 *(Defendants is exempt from filing fees*
22 *pursuant to Government Code § 6103)*

23 UNITED STATES DISTRICT COURT
24 CENTRAL DISTRICT OF CALIFORNIA

25 **JOSHUA ASSIFF,**

26 **Plaintiff,**

27 **v.**

28 **COUNTY OF LOS ANGELES;**
SHERIFF DEPUTY BADGE
NUMBER 404532;
And DOES 1 through 10,

Defendants.

Case No. 2:22-cv-05367 RGK (MAAx)

JOINT REPORT OF PARTIES'
INITIAL MEETING OF COUNSEL
UNDER FRCP 26(f)

1 COMES NOW, JOSHUA ASSIFF (hereinafter referred to as “ASSIFF” or
2 “Plaintiff”) and Defendants COUNTY OF LOS ANGELES (“COLA”) and
3 SERGEANT TRAVIS KELLY (“KELLY”) (hereinafter COLA and KELLY shall
4 collectively be referred to as “Defendants”) (hereinafter Plaintiff and Defendants
5 shall jointly be referred to as the “Parties”), and the Parties respectfully provide
6 their joint report of initial meeting of counsel pursuant to Federal Rules of Civil
7 Procedure, Rule 26(f):

8
9 **CONFERENCE OF COUNSEL:** Pursuant to Federal Rules of Civil
10 Procedure, Rule 26(f), a meeting of counsel was held via Zoom remote meeting
11 software on October 17, 2022. In attendance were Plaintiff’s counsel, Thomas M.
12 Ferlauto, and Defendants’ counsel, Molshree Gupta. In conferring, the parties
13 considered the nature and basis of their claims and defenses and the possibilities for
14 promptly settling or resolving the case; made or arranged for the disclosures
15 required by Rule 26(a)(1); discussed issues about preserving discoverable
16 information; and developed a proposed discovery plan.

17
18 **STATEMENT OF THE CASE:** *Plaintiff alleges* that Defendant, acting
19 under color of law or color of authority, deprived Plaintiff of his rights, privileges,
20 or immunities secured by the United States Constitution, by arresting Plaintiff
21 without probable cause and with use of excess force in violation of the Fourth and
22 Fourteenth Amendments to the United States Constitution. Plaintiff alleges that
23 Plaintiff is a 21-year old black male and a student at Antelope Valley College
24 where he plays basketball. Plaintiff was driving from his home to a teammate’s
25 house in order to carpool to basketball practice. For no apparent reason and without
26 probable cause, KELLY, a male Caucasian motorcycle Sheriff deputy, pulled
27 Plaintiff over. For no apparent reason and without probable cause, KELLY – as
28 well as other deputies who subsequently responded to the call – all tasered, choked,

1 pepper sprayed, beat and arrested Plaintiff. Plaintiff has asserted two causes of
2 action – the First Cause of Action against KELLY for violation of 42 USC § 1983
3 (arrest without probable cause and with excessive force), and the Second Cause of
4 Action against COLA for violation of 42 USC § 1983 (*Monell* liability).

5 As a preliminary matter, Plaintiff’s the Fourteenth Amendment claim is
6 superfluous and should be dismissed. Further, the Complaint and each of the two
7 causes of action alleged therein, fail to state a claim upon which relief can be
8 granted. Moreover, Plaintiff’s first cause of action against “Defendant DEPUTY”
9 premised on the arrest without probable cause is barred under the doctrine of
10 collateral estoppel. Additionally, Plaintiff has failed to state an entitlement to
11 punitive or exemplary damages. Finally, Defendants deny Plaintiff’s allegations
12 and further contend that Plaintiff’s allegations have no factual or legal merit.

13
14 **INITIAL DISCLOSURES:** The Parties made arrangement to make the
15 disclosures required by Rule 26(a)(1) on or before October 26, 2022.

16
17 **PRESERVING DISCOVERABLE INFORMATION:** The Parties agreed
18 to preserve all documents reasonably believed to be relevant to the subject matter of
19 this litigation.

20
21 **DISCOVERY PLAN:**

22 (a) The Parties agreed that there was no need to make any changes in the
23 timing, form, or requirement for disclosures under Rule 26(a), except that the
24 parties agreed that the initial disclosures shall be made on or before October 26,
25 2022. The Parties did not agree when Fact discovery should be closed, but the
26 Parties agreed that expert disclosures shall be made two weeks after the close of
27 Fact discovery, and rebuttal expert disclosures shall be made two weeks after the
28 initial expert disclosures.

1 (b) The Parties discussed the subjects on which discovery may be needed,
2 when discovery should be completed, and whether discovery should be conducted
3 in phases or be limited to or focused on particular issues:

4 1) The Parties agreed there was no need for phased discovery.

5 2) The Parties did not agree upon the date for completion of Fact
6 discovery. Plaintiff recommends that Fact discovery be completed within 9 months
7 from the date of this report. Defendants recommend that Fact discovery be
8 completed within 12 months of the date of the filing of this report.

9 3) The Parties agreed that Expert discovery shall be completed
10 within three months of the completion of Fact discovery.

11 (c) The Parties discussed issues about disclosure, discovery, and
12 preservation of electronically stored information, including the form or forms in
13 which it should be produced. The Parties agreed that the production of
14 electronically stored information shall be in .pdf format. Digital video evidence
15 will be produced in a format that can be viewed by readily available computer
16 applications.

17 (d) The Parties discussed issues about anticipated claims of privilege and
18 of protection as trial-preparation materials, including—if the parties agree on a
19 procedure to assert these claims after production—whether to ask the court to
20 include their agreement in an order under Federal Rule of Evidence 502. The
21 parties did not identify any issues that needed to be addressed other than the
22 possible need for *Pitchess* motions before access to deputies' personnel files.

23 (e) The Parties discussed what changes should be made in the limitations
24 on discovery imposed under these rules or by local rule, and what other limitations
25 should be imposed. The Parties did not identify any additional limitations.

26 (f) The Parties discussed whether the court should issue any other orders
27 under Rule 26(c) or under Rule 16(b) and (c). The Parties did not identify any
28

1 orders or issues other than the possible need for *Pitchess* motions before access to
2 deputies' personnel files.

3
4 **ADDITIONAL ISSUES PURSUANT TO LOCAL RULE 26-1:** At the
5 conference, the Parties also discussed the following matters in addition to those
6 noted in F.R.Civ.P. 26(f):

7 (a) The Parties discussed the complexity of the case, and whether all or part
8 of the procedures of the Manual For Complex Litigation (current edition) should be
9 utilized. The Parties agreed that this case is NOT complex.

10 (b) The Parties discussed a motion schedule for dispositive or partially
11 dispositive motions which are likely to be made, and a cutoff date by which all such
12 motions shall be made. The Parties agreed that Defendant's dispositive motion
13 shall be filed on or before the close of fact discovery.

14 (c) The Parties discussed alternative dispute resolution, including the
15 selection of one of the three ADR Procedures specified in L.R. 16-15.4 as best
16 suited to the circumstances of the case, and when the ADR session should occur.
17 The Parties agreed on ADR PROCEDURE NO. 2 - The parties shall appear before
18 a neutral selected from the Court's Mediation Panel. The parties did not agree
19 when the mediation should take place. Plaintiff recommended within six months
20 from the date of the filing of this report. Defendants recommended after the close
21 of Fact discovery. However, the Parties may elect to pursue mediation earlier.

22 (d) The Parties discussed trial estimates. The Parties agreed that a
23 preliminary estimate of the time required for trial is 4-7 days.

24 (e) The Parties discussed potential additional parties and the likelihood of
25 appearance of additional parties. Plaintiff reserves the right to add additional
26 defendants, including the other deputies responding to the call as and when they are
27 identified. Defendants did not identify any additional parties.

28

1 (f) The Parties discussed Expert Witnesses and the proposed timing of
2 disclosures under F.R.Civ.P. 26(a)(2). The parties did not agree when Fact
3 discovery should be closed, but the parties agreed that expert disclosures shall be
4 made two weeks after the close of Fact discovery, and rebuttal expert disclosures
5 shall be made two weeks after the initial expert disclosures.

6
7 DATED: October 26, 2021

The Law Office Of Thomas M. Ferlauto, APC

8
9 By: 

10 Thomas M. Ferlauto

11 Attorney For: Plaintiff, JOSHUA ASSIFF

12 DATED: October 26, 2021

KJAR, McKENNA & STOCKALPER, LLP

13
14 By: 

15 Molshree Gupta

16 Attorney For: Defendants, COUNTY OF LOS
17 ANGELES and TRAVIS KELLY
18
19
20
21
22
23
24
25
26
27
28